THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO.2769 of 2005

Dated 16-08-2005

Between:

B.veda Prakash, S/o Late Gorelal,

63 years, Harijan, Valmiki Nagar, Hyderabad

and another …… Petitioner.

And

A.P. Bhoodhan Yagna Board,

Rep. By its Chairman, Gandhi Bhavan, Nampally,

Hyderabad and others …… Respondents

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ORDER:

This writ petition has been filed by B.Veda Prakash and B.Pushpa Latha with a prayer to issue a Writ of Mandamus declaring the action of the 2nd respondent-A.P.Bhoodan Yagna Board (for short Board) in passing the order dated 21-07-2004 and the consequential order dated 13-08-2004 passed by the Mandal Revenue Officer, Ibrahimpatnam-3rd respondent, as illegal arbitrary and violative of Article 14 of the Constitution of India.

The facts of the case, in brief, are:

The petitioners 1 and 2 are husband and wife. The father and grand father of 1st petitioner owned lands in several survey numbers including the land in Sy.No.41 of Uppuguda village, Kanchanbagh, Hyderabad District. Their lands were acquired

by the Government under the provisions of Land Acquisition Act, 1964. The Bhoodan Yagna Samithi agreed to purchase agricultural lands from out of the compensation amount and distribute the same instead of money to the persons who are deprived of the lands by virtue of acquisition. Accordingly, the Samithi purchased the lands at Adibhatla village and assigned the same to the beneficiaries. The father of 1st petitioner made an application for assignment of Ac.3-00 of land in lieu of compensation situated in Sy.Nos.51 and 53 of Adibhatla village, Ibrahimpatnam Mandal, R.R.District. Likewise, several others were given Ac.3-00 of land each in lieu of compensation. The father of 1st petitioner agreed to purchase the lands given to five of such persons and accordingly paid the sale consideration to them and obtained simple sale deeds from the said five individuals. The sales came to be regularized under the provisions of A.P.Record of Rights and Pattadar Pass Book Act, 1971. After the demise of father of 1st petitioner, the petitioners have been in possession and enjoyment of the said lands. The petitioners came to know through the Mandal Revenue Officer that A.P.Bhoodan Yagna Board-respondents 1 and 2 (hereinafter referred to as Board) passed an order on 21-07-2004 canceling pattas granted in favour of five individuals from whom father of 1st petitioner purchased. Thereafter the petitioners secured copies of orders passed by the Board on 21-07-2004 and consequential order passed by the Mandal Revenue Officer on 13-08-2004. According to the petitioners, the Board passed order on 21-07-2004 without any enquiry and any show cause notice to them before canceling of pattas and therefore the order passed by the Board and order passed by the Mandal Revenue Officer are not legal and proper and they are violative of principles of natural justice.

The Board-Respondents 1 and 2 filed counter affidavit, which, in brief, is as follows:

The Board has been established under A.P.Bhoodan and Gramdan Act, 1965. An extent of Acs.275-00 of land bearing S.No.41 of Uppuguda village, Kanchanbagh, Hyderabad, was handed over to the Board for distribution to various landless poor persons including Gorelal, father of 1st petitioner. The said land was acquired by the Government by notifying the same under the provisions of L.A.Act, 1964. From the compensation awarded for the said lands, the Board purchased agricultural lands to an extent of Ac.51-38 guntas in S.Nos.51, 52 and 53 of

Adibhatla village, Ibrahimpatnam Mandal, R.R.District from their owners and pattadars namely Srinivasulu and others after obtaining clearance from the then Tahsildar, Ibrahimpatnam in proceedings No.A4/9854/77, dated 28-02-1978. The Board assigned the said land to 17 eligible beneficiaries who are deprived of the assigned lands at Kanchanbagh because of acquisition of the same by the Government for laboratories. The father of the 1st petitioner was also assigned Ac.3.00 of land in S.Nos.51 and 53 of Adibhatla village vide proceedings No.2732 dated 07-07-1998 in lieu of compensation. The said Gorelal, in violation of the A.P.Bhoodan and Gramdan Act, 1965 and its Rules, purchased the land assigned to (i) Mukka Maisaiah (ii) Thotakada Lakshmaiah (iii) Thotakada Babaiah (iv) Vanguri Lakshmaiah (v) Vanguri Muthaiah to an extent of Ac.15.00 guntas. As per Rule 9(I) of the A.P.Bhoodan and Gramdan Rules, 1965, the lands assigned by the Board to landless poor persons are heritable but not alienable. A show cause notice dated 17-03-2004 came to be issued to the petitioners as to why the assignments made in favour of the assignees should not be cancelled. The said notice was served on the petitioners on 23-06-2004 The petitioners failed to submit any explanation and therefore, the assignments made in favour of the assignees came to be cancelled vide proceedings dated 21-02-2004. Consequently, the Mandal Revenue Officer, Ibrahimpatnam, vide proceedings dated 13-08-2004 had cancelled the pattadar pass book and title deeds issued in favour of the original allottees, which were obtained by suppressing as to the nature of lands. However, assignment of Ac.3-00 in the name of father of the 1st petitioner has not been cancelled, as there is no alienation in respect thereof.

Heard learned counsel for the petitioners and Standing Counsel appearing for respondents 1 and 2 and learned Government Pleader for Revenue appearing for 3rd and 4th respondents.

Learned counsel appearing for the petitioners submits that the lands at Kanchanbagh owned by father of the 1st petitioner and others were private lands and the lands in question were purchased out of the compensation payable to their private lands and therefore the Board cannot claim any right over the properties purchased out of the compensation paid by the Government. He would further submit that the petitioners were never served with a show cause notice and therefore proceedings issued by the Board canceling the assignment in favour of

five assignees from whom the father of the 1st petitioner purchased the lands are in violation of the principles of natural justice.

Learned Standing Counsel appearing for respondents 1 and 2 submits that the lands at Kanchanbagh were endowed to Bhoodan Samithi by H.E.H., The Nizam and the board in turn assigned the same to various landless poor persons including father of the 1st petitioner and five other individuals. The Government acquired the said lands under land acquisition proceedings for laboratories and paid the compensation to the Board and thereupon the Board acquired the lands in S.No.51 and 53 of Adibhatla village and assigned the same to the landless poor persons who lost their lands in acquisition proceedings and the father of the 1st petitioner and five other individuals, from whom the father of the 1st petitioner purchased the lands, were among the persons to whom lands were assigned subject to certain terms and conditions. He further submits that a show cause notice was issued to the petitioners before resuming the lands and since the petitioners failed to submit any explanation to the show cause notice, proceedings canceling the assignments came to be issued and consequently the Mandal Revenue Officer issued proceedings resuming the land.

The writ petitioners raised two principal contentions. Firstly, the lands at Kanchanbagh were the private lands and those lands came to be acquired by the Government under land acquisition proceedings and out of the compensation paid by the Government, the lands at Adibhatla village, Ibrahimpatnam Mandal, R.R.District were purchased and the same were assigned to various individuals including the father of 1st petitioner and five other persons from whom the father of the 1st petitioner purchased the lands and therefore the lands at Adibhatla village, Ibrahimpatnam Mandal, R.R.District cannot be called as Bhoodan lands. Secondly, the petitioners are not served with any notice before canceling the assignments in favour of five individuals from whom the father of the 1st petitioner purchased. The first contention raised by the petitioners can be repelled by referring to the judgment passed in CCA.No.156 of 1968 (Special Deputy Collector, L.A., Hyderabad V.V.Keshav Rao, Convener, A.P.Bhoodan Yagna Board and 63 others). A notification was issued on 30-01-1964 under section 4(1) of L.A.Act for acquisition of 275 acres of land in Kanchanbagh village. The Land Acquisition Officer fixed the compensation at Rs.944/- per acre. On reference to the Civil Court in O.P.No.234 of

1965 under section 18 of L.A. Act, the amount was enhanced to Rs.1,500/- per acre. Aggrieved by the enhancement of compensation by the civil court, the Special Deputy Collector preferred the above appeal. The appeal ended in dismissal. After the dismissal of the appeal the Board filed a cheque petition for withdrawing the amount so as to enable the Board to purchase alternative lands. I deem it appropriate to refer the relevant portion of the order passed on the cheque petition and it is thus:

> "…In view of this legal position the 1st respondent-Bhoodan Samithi is directed to obtain a certificate from the Collector regarding the title to and value of the property and also its suitability for the purpose of its being allotted to the landless poor for cultivation. On such certificate issued by the Collector or any other subordinate officers authorized by the Collector in this behalf the Court will consider the question of granting permission to the 1st respondent Bhoodan Samithi for investing the compensation amount in the purchase of lands in question. The petitioner may renew the petition after obtaining such a certificate from the Collector or any other officer authorized by the Collector in this behalf. Petition closed."

The material placed on record clearly establishes that the lands at Kanchanbagh were not the private lands of father of the 1st petitioner and others. It is crystal clear from the record that the lands at Kanchanbagh were acquired and compensation was paid to Board and thereafter the Board purchased the lands at Adibhatla village, Ibrahimpatnam Mandal, R.R.District under registered sale deeds dated 02-05-1978 and distributed the same to various landless poor persons whose assigned lands at Kanchanbagh came to be acquired by the Government. The father of the 1st petitioner and five individuals are among those persons to whom the Board assigned lands which were purchased out of the compensation paid for the Kanchanbagh lands acquired by the Government. Copies of proceedings with regard to assignment of land by the Board to the persons from whom the father of the 1st petitioner claimed to have purchased have placed on record. It is no more in dispute that the lands assigned by the Board are only heritable and not alienable.

It is trite to refer Rule 9 (i) of the A.P.Bhoodan and Gramdan Rules, 1965 and it reads as under:

> "9. The grant of land by the Board under Section 14(1) shall be subject to the

following conditions:-

(i) Land assigned shall be heritable but not alienable. The land granted may, however, be mortgaged to the Government, or to a co-operative society recognized by the Government including a land mortgage Bank or Panchayat Samithi for obtaining loans for development of the land"

Since the lands in question are not alienable, the purchase of the same from the assignees is in controvertion of the proceedings of A.P.Bhoodan and Gramdan Act, 1965 and A.P.Bhoodan and Gramdan Rules, 1965.

With regard to the second contention, the respondents 1 and 2 placed on record that a show cause notice was served on the petitioners on 23-06-2004. A Photostat copy of the show cause notice containing the signatures of the petitioners as proof of receiving the same on 23-06-2004 has been placed on record. Since the petitioners failed to submit any explanation to the show cause notice, the Board passed final orders dated 21-07-2004 and thereupon the Mandal Revenue Officer passed consequential order dated 13-08-2004. Such is the situation, the action of the Board in canceling the assignments granted in favour of five individuals from whom the father of the 1st petitioner purchased lands cannot be found fault.

In the result, this Writ Petition is devoid of merits and the same is dismissed. No costs.

Dated 16-08-2005 (B.Seshasayana Reddy, J.)

Tnb/skmr